

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
BAZA'R, INC.

Appellant,

vs.

PUGET SOUND AIR POLLUTION
CONTROL AGENCY,

Respondent.

PCHB No. 82

FINDINGS OF FACT,
CONCLUSIONS AND ORDER

This matter, the appeal of a \$50 civil penalty for an alleged violation of respondent's Regulation I, came before all members of the Pollution Control Hearings Board in the Board's conference room in Olympia at 1:30 p.m., June 6, 1972.

Appellant was represented by William A. Gifford, its district manager and assistant vice-president. Respondent appeared through its counsel, Keith D. McGoffin.

No compromise settlement being apparent, the proceedings became a formal hearing. Witnesses were sworn and testified. Exhibits were

1 admitted.

2 On the basis of testimony heard and exhibits examined, the Pollution
3 Control Hearings Board prepared Proposed Findings of Fact, Conclusions
4 and Order which were submitted to the appellant and respondent on
5 June 20, 1972. No objections or exceptions to the Proposed Findings,
6 Conclusions and Order having been received, the Pollution Control Hearings
7 Board makes and enters the following:

8 FINDINGS OF FACT

9 I.

10 Appellant operates 12 incinerators in connection with its retail
11 stores in the Seattle-Tacoma-Everett area. It directs its employees to
12 operate the incinerators in compliance with standards and specifications
13 of respondent.

14 II.

15 On December 3, 1971, at its store at 705 Rainier Avenue South,
16 Renton, King County, its incinerator stack emitted black smoke. An
17 inspector of respondent conferred with the store manager who then
18 turned on the incinerator's after-burner and scrubber, thus eliminating
19 the emission. No Notices of Violation or Civil Penalty were issued.

20 III.

21 In the morning of December 8, 1971, an inspector of respondent
22 saw the same incinerator stack emitting black smoke for at least 14
23 continuous minutes of density in excess of No. 5 on the Ringelmann Scale.
24 Inspection of the incinerator showed that the after-burner and scrubber
25 were not in operation. Notice of Violation No. 4870 and Notice of
26 Civil Penalty No. 183 in the amount of \$50 were served on appellant.

27 FINDINGS OF FACT,
CONCLUSIONS AND ORDER

1 From these Findings of Fact, the Pollution Control Hearings Board
2 comes to these

3 CONCLUSIONS

4 I.

5 Appellant was in violation of Section 9.03(a)(1) of respondent's
6 Regulation I on December 8, 1971, at its Renton store.

7 II.

8 While this was the only violation notice served on appellant by
9 respondent in the six-month period prior to December, 1971, the
10 manager of appellant's Renton store had been warned five days prior
11 to the violation to operate anti-emission devices when the incinerator
12 was in use.

13 III.

14 The invoked civil penalty, being one-fifth of the allowable
15 maximum amount, is reasonable.

16 Therefore, the Pollution Control Hearings Board issues this

17 ORDER

18 The appeal is denied and respondent's Notice of Violation No. 4870
19 and Notice of Civil Penalty No. 183 are sustained.

20 DONE at Olympia, Washington this 12th day of July, 1972.

POLLUTION CONTROL HEARINGS BOARD

Matthew W. Hill
MATTHEW W. HILL, Chairman

Walt Woodward
WALT WOODWARD, Member

James T. Sheehy
JAMES T. SHEEHY, Member

FINDINGS OF FACT,
CONCLUSIONS AND ORDER